

116<sup>TH</sup> CONGRESS  
2<sup>D</sup> SESSION

# S. 3952

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## AN ACT

To require the imposition of sanctions with respect to foreign persons that have engaged in significant theft of trade secrets of United States persons, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Protecting American  
3 Intellectual Property Act of 2020”.

4 **SEC. 2. IMPOSITION OF SANCTIONS WITH RESPECT TO**  
5 **THEFT OF TRADE SECRETS OF UNITED**  
6 **STATES PERSONS.**

7 (a) REPORT REQUIRED.—

8 (1) IN GENERAL.—Not later than 180 days  
9 after the date of the enactment of this Act, and not  
10 less frequently than every 180 days thereafter, the  
11 President shall submit to the appropriate congress-  
12 sional committees a report—

13 (A) identifying, for the 180-day period pre-  
14 ceding submission of the report—

15 (i) any foreign person that has know-  
16 ingly engaged in, or benefitted from, sig-  
17 nificant theft of trade secrets of United  
18 States persons, if the theft of such trade  
19 secrets is reasonably likely to result in, or  
20 has materially contributed to, a significant  
21 threat to the national security, foreign pol-  
22 icy, or economic health or financial sta-  
23 bility of the United States;

24 (ii) any foreign person that has pro-  
25 vided significant financial, material, or  
26 technological support for, or goods or serv-

1           ices in support of or to benefit significantly  
2           from, such theft;

3                   (iii) any entity owned or controlled by,  
4                   or that has acted or purported to act for  
5                   or on behalf of, directly or indirectly, any  
6                   foreign person identified under clause (i)  
7                   or (ii); and

8                   (iv) any foreign person that is a chief  
9                   executive officer or member of the board of  
10                  directors of any foreign entity identified  
11                  under clause (i) or (ii); and

12                (B) describing the nature, objective, and  
13                outcome of the theft of trade secrets each for-  
14                eign person described in subparagraph (A)(i)  
15                engaged in or benefitted from; and

16                (C) assessing whether any chief executive  
17                officer or member of the board of directors de-  
18                scribed in clause (iv) of subparagraph (A) en-  
19                gaged in, or benefitted from, activity described  
20                in clause (i) or (ii) of that subparagraph.

21                (2) FORM OF REPORT.—Each report required  
22                by paragraph (1) shall be submitted in unclassified  
23                form but may include a classified annex.

24                (b) AUTHORITY TO IMPOSE SANCTIONS.—

1           (1) SANCTIONS APPLICABLE TO ENTITIES.—In  
2 the case of a foreign entity identified under subpara-  
3 graph (A) of subsection (a)(1) in the most recent re-  
4 port submitted under that subsection, the President  
5 shall impose one of the following:

6           (A) BLOCKING OF PROPERTY.—The Presi-  
7 dent may, pursuant to the International Emer-  
8 gency Economic Powers Act (50 U.S.C. 1701 et  
9 seq.), block and prohibit all transactions in all  
10 property and interests in property of the entity  
11 if such property and interests in property are in  
12 the United States, come within the United  
13 States, or are or come within the possession or  
14 control of a United States person.

15           (B) INCLUSION ON ENTITY LIST.—The  
16 President may include the entity on the entity  
17 list maintained by the Bureau of Industry and  
18 Security of the Department of Commerce and  
19 set forth in Supplement No. 4 to part 744 of  
20 the Export Administration Regulations, for ac-  
21 tivities contrary to the national security or for-  
22 eign policy interests of the United States.

23           (2) SANCTIONS APPLICABLE TO INDIVIDUALS.—  
24 In the case of an individual identified under sub-  
25 paragraph (A) of subsection (a)(1) in the most re-

1 cent report submitted under that subsection, the fol-  
2 lowing shall apply:

3 (A) BLOCKING OF PROPERTY.—The Presi-  
4 dent shall, pursuant to the International Emer-  
5 gency Economic Powers Act (50 U.S.C. 1701 et  
6 seq.), block and prohibit all transactions in all  
7 property and interests in property of the indi-  
8 vidual if such property and interests in property  
9 are in the United States, come within the  
10 United States, or are or come within the pos-  
11 session or control of a United States person.

12 (B) VISA BAN; EXCLUSION.—The Sec-  
13 retary of State shall deny a visa to the indi-  
14 vidual and revoke, in accordance with section  
15 221(i) of the Immigration and Nationality Act  
16 (8 U.S.C. 1201(i)), any visa or other docu-  
17 mentation of the individual, and the Secretary  
18 of Homeland Security shall exclude the indi-  
19 vidual from the United States.

20 (c) IMPLEMENTATION; PENALTIES.—

21 (1) IMPLEMENTATION.—The President may ex-  
22 ercise all authorities provided under sections 203  
23 and 205 of the International Emergency Economic  
24 Powers Act (50 U.S.C. 1702 and 1704) to carry out  
25 this section.

1           (2) PENALTIES.—A person that violates, at-  
2           tempts to violate, conspires to violate, or causes a  
3           violation of paragraph (1)(A) or (2)(A) of subsection  
4           (b) or any regulation, license, or order issued to  
5           carry out that paragraph shall be subject to the pen-  
6           alties set forth in subsections (b) and (c) of section  
7           206 of the International Emergency Economic Pow-  
8           ers Act (50 U.S.C. 1705) to the same extent as a  
9           person that commits an unlawful act described in  
10          subsection (a) of that section.

11          (d) NATIONAL INTEREST WAIVER.—The President  
12          may waive the imposition of sanctions under subsection  
13          (b) with respect to a person if the President—

14                (1) determines that such a waiver is in the na-  
15                tional interests of the United States; and

16                (2) not more than 15 days after issuing the  
17                waiver, submits to the appropriate congressional  
18                committees a notification of the waiver and the rea-  
19                sons for the waiver.

20          (e) TERMINATION OF SANCTIONS.—Sanctions im-  
21          posed under subsection (b) with respect to a foreign per-  
22          son identified in a report submitted under subsection (a)  
23          shall terminate if the President certifies to the appropriate  
24          congressional committees, before the termination takes ef-

1 fect, that the person is no longer engaged in the activity  
2 identified in the report.

3 (f) EXCEPTIONS.—

4 (1) INTELLIGENCE ACTIVITIES.—This section  
5 shall not apply with respect to activities subject to  
6 the reporting requirements under title V of the Na-  
7 tional Security Act of 1947 (50 U.S.C. 3091 et seq.)  
8 or any authorized intelligence activities of the United  
9 States.

10 (2) LAW ENFORCEMENT ACTIVITIES.—Sanctions  
11 under this section shall not apply with respect  
12 to any authorized law enforcement activities of the  
13 United States.

14 (3) EXCEPTION TO COMPLY WITH INTER-  
15 NATIONAL AGREEMENTS.—Subsection (b)(2)(B)  
16 shall not apply with respect to the admission of an  
17 individual to the United States if such admission is  
18 necessary to comply with the obligations of the  
19 United States under the Agreement regarding the  
20 Headquarters of the United Nations, signed at Lake  
21 Success June 26, 1947, and entered into force No-  
22 vember 21, 1947, between the United Nations and  
23 the United States, under the Convention on Con-  
24 sular Relations, done at Vienna April 24, 1963, and

1 entered into force March 19, 1967, or under other  
2 international agreements.

3 (g) EXCEPTION RELATING TO IMPORTATION OF  
4 GOODS.—

5 (1) IN GENERAL.—The authority or a require-  
6 ment to impose sanctions under this section shall  
7 not include the authority or a requirement to impose  
8 sanctions on the importation of goods.

9 (2) GOOD DEFINED.—In this paragraph, the  
10 term “good” means any article, natural or manmade  
11 substance, material, supply, or manufactured prod-  
12 uct, including inspection and test equipment, and ex-  
13 cluding technical data.

14 (h) DEFINITIONS.—In this section:

15 (1) APPROPRIATE CONGRESSIONAL COMMIT-  
16 TEES.—The term “appropriate congressional com-  
17 mittees” means—

18 (A) the Committee on Banking, Housing,  
19 and Urban Affairs and the Committee on For-  
20 eign Relations of the Senate; and

21 (B) the Committee on Financial Services  
22 and the Committee on Foreign Affairs of the  
23 House of Representatives.

24 (2) EXPORT ADMINISTRATION REGULATIONS.—  
25 The term “Export Administration Regulations”

1 means subchapter C of chapter VII of title 15, Code  
2 of Federal Regulations.

3 (3) FOREIGN ENTITY.—The term “foreign enti-  
4 ty” means an entity that is not a United States per-  
5 son.

6 (4) FOREIGN PERSON.—The term “foreign per-  
7 son” means a person that is not a United States  
8 person.

9 (5) TRADE SECRET.—The term “trade secret”  
10 has the meaning given that term in section 1839 of  
11 title 18, United States Code.

12 (6) PERSON.—The term “person” means an in-  
13 dividual or entity.

14 (7) UNITED STATES PERSON.—The term  
15 “United States person” means—

16 (A) a United States citizen or an alien law-  
17 fully admitted for permanent residence to the  
18 United States;

19 (B) an entity organized under the laws of  
20 the United States or of any jurisdiction within  
21 the United States, including a foreign branch of  
22 such an entity; or

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(C) any person in the United States.

Passed the Senate December 20, 2020.

Attest:

*Secretary.*



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